



CITY OF
TUCSON
ZONING
EXAMINER'S
OFFICE

PRELIMINARY REPORT

June 1, 2017

Lazaurs, Silvyn & Bangs P.C.
c/o Timothy Kinney, Esq.
5983 E. Grant Road, Suite 290
Tucson, AZ 85718

**SUBJECT: C9-17-04 Rita Tech Park Lots 2-9 – Rita Road
C-2 to I-1
Public Hearing: May 25, 2017**

Dear Mr. Kinney,

Pursuant to the City of Tucson's Unified Development Code (UDC) and the Zoning Examiner's Rules of Procedures (Resolution No. 9428), this letter is the Zoning Examiner's written notification of the summary of rezoning findings for rezoning case **C9-17-04 Rita Tech Park Lots 2-9 – Rita Road**.

At the expiration of 14 days of the conclusion of the public hearing, the Zoning Examiner's Report (complete with background information, public hearing summary, findings of fact, conclusion, recommendation, and public hearing minutes) to the Mayor and Council shall be filed with the City Manager. A copy of that report can be obtained from either the Planning and Development Services Department (791-5550) or the City Clerk.

If any party believes that the Zoning Examiner's recommendation is based on errors of procedure or fact, a written request to the Zoning Examiner for review and reconsideration may be made within 14 days of the conclusion of the public hearing.

The public hearing held by the Zoning Examiner shall constitute the public hearing by the Mayor and Council. However, any person may request a new public hearing before the Mayor and Council. A request for a new public hearing must be filed in writing with the City Clerk within 14 days of the close of the Zoning Examiner's public hearing.

SUMMARY OF FINDINGS

This is a rezoning request by Lazarus, Silvyn & Bangs P.C., on behalf of the property owners, Rita 244, LLC, to rezone approximately 20.27 acres, Lots 2 through 9 of the Interstate Commerce Plat, from C-2 to -1-1 zoning. The rezoning site is located on the east side of Rita Road between the Union Pacific Railroad to the north and Interstate-10 to the south.

The preliminary development plan dated April 12, 2017 proposes a hotel on 4.11 acres (Lot 8), with a building pad of 16,102 square feet, at a building height of sixty feet.

Lot 8 has an approved development package DP14-0167, for the hotel complex, under the existing C-2 zone with a height limit of forty feet. This rezoning request for the I-1 zone will allow additional height of up to sixty feet for the hotel. The I-1 zone allows this height and the height proposal meets Davis-Monthan Air Force Base, Airport Environs Zone - Approach Departure Corridor (ADC-3).

The remaining 16.6 acres of the site, (Lots 2 through 7 & 9) are proposed to have a future development phase allowing a combination of office, retail, hotel, manufacturing, warehousing, distribution facility or other permitted uses, with associated parking, pedestrian circulation and landscaping that are permitted in the I-1 zone and in compliance with the provisions of the *Unified Development Code*.

At the May 25, 2017 Zoning Examiner's Public Hearing, staff reported there were no written approvals or protests. The applicant's representative agreed to the Planning and Development Services' rezoning conditions, however, she noted that after further discussion with the local neighborhood association there were two conditions that they can support viz., 1) a north south drainage area parallel to Rita Road is not to be covered but to remain and 2) the height of the future buildings except for the proposed hotel shall be limited to 57 feet building height measured from the design grade of the site. The final wording would be forwarded to the Zoning Examiner prior to the release of the preliminary report. It was also noted that the subject property was previously zoned I-1 then was rezoned to C-2 and now because of current market conditions is again proposing the I-1 zone. A speaker from the local neighborhood association supported the rezoning subject to the two special conditions noted above.

Existing Land Use and General Location –The rezoning site is currently vacant land. To the north is zoned C-2 and I-2 with a bottling distribution center, the Julian Wash, the Union Pacific Railroad, and vacant land, to the south is zoned C-2 and RX-1 with I-10 and vacant land, to the east is zoned I-1 and RX-1 with the Target Distribution Center, the Julian Wash and vacant land and, to the west is zoned County CI-2 with the University of Arizona Science and Technology Park.

Land Use Plans –

Land use policy direction for this area is provided by *Plan Tucson (PT)* and the *Esmond Station Area Plan (ESAP)*.

Plan Tucson Future Growth Scenario Map identifies the rezoning site and surrounding lands as long-term growth areas. *PT* supports the proximity of employment, retail and services to allow easy access and reduce car dependence. *PT* calls for the development of mixed use centers with retail, services, offices and other options. It supports public transit for proposed large industrial facilities

with high numbers of employees. *PT* also encourages the development of an industrial facility that has convenient access to highway, rail, or air services and routes. In addition, environmentally sensitive design that complements adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community is encouraged.

The *ESAP* supports industrial development within the Davis-Monthan approach-departure paddle as well as near railroad and interstate access and where such land uses as residential development are discouraged.

ESAP policy also supports the development of commercial uses within one-quarter mile of the Rita Road/Interstate 10 interchange. The *ESAP* recognizes that areas with access to Interstate 10 are suitable for industrial and highway-related commercial uses, such as the proposed hotel and the I-1 zoned land uses proposed in the future phase.

The adopted *Rincon Southeast Subregional Plan* designates the greater area to the east and south of the rezoning site for Urban Industrial development. At the time of development package review, the rezoning site will be designed to be in compliance with the affected Approach-Departure Corridor (ADC-3).

Major Streets and Routes Plan map identifies Rita Road as an arterial roadway with a future right-of-way of 150 feet. It is immediately west of the rezoning site. Interstate 10, identified as an interstate route on the *Major Streets and Routes Plan* map, is immediately south of the rezoning. The applicant stated the design capacity of Rita Road is 44,000 average daily trips and currently has about 13,000 average daily trips.

The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates that the proposed hotel, in Phase 1 will generate 1,716 vehicle trips per day. The preliminary development plan's (PDP) future phase development does not have site planning details and was not included in the PAG-TPD average daily trip calculations.

Site Plan Considerations –

The *ESAP* and *PT* propose to mitigate the project's impact on the surrounding area. As supported by *ESAP* Industrial Policy 1A.1, the rezoning site is within the Davis-Monthan approach-departure paddle and Industrial Policy 2.E.2, the overall rezoning site has over ten acres in land area and access onto an arterial street and nearby interstate access.

The PDP complies with *ESAP* policy on perimeter treatment, and shows a common theme for perimeter landscaping buffers, access from Rita Road. Lot 8 will have an enhanced ten-foot wide landscaping buffer along Rita Road frontage and ten-foot wide landscaping borders along the north and east boundaries of Lot 8. No landscaping is proposed along Lot 8's south boundary since Lot 9 and future developments will be integrated here.

The staff report as well as neighborhood association testimony stated the proposed hotel and future light industrial uses are compatible with the University of Arizona Science and Technological Park to the west, the railroad and industrially zoned land beyond to the north and east, and the commercially zoned land and interstate highway to the south.

Per the *Unified Development Code*, the rezoning site is subject to the ADC-3 including a height restriction limited to sixty-two feet. The proposed hotel and future developments will comply with *Unified Development Code*, development standards.

The two additional conditions agreed to by the neighborhood representative and the applicant regarding leaving an existing north/south drainage area as is and to limit the building height of future buildings, other than the proposed hotel, to 57 feet in height measured from the design grade of the plat is acceptable and compatible with the I-1 zone and the direction of land use policies in the area.

CONCLUSION

The rezoning is in substantial compliance with *Plan Tucson* and the *Esmond Station Area Plan*. The proposed land use is compatible with the surrounding land uses and existing infrastructure. The local neighborhood association has expressed support. The two additional conditions are acceptable in achieving a compatible proposal within the I-1 zone in this location. PDSD staff further recommends the direct ordinance procedure for Phase 1 (Lot 8) of the subject property and authorization of the remaining rezoning site.

RECOMMENDATION

The Zoning Examiner recommends approval of the rezoning subject to the Zoning Examiner's recommended conditions including the conditions regarding the drainage area and future development's building height.

Sincerely,



Jim Mazzocco, AICP
Zoning Examiner

ATTACHMENTS:

Case Location Map
Rezoning Case Map
Zoning Examiner Conditions

cc: City of Tucson Mayor and Council

PROCEDURAL

1. A development package in substantial compliance with the preliminary development plan dated April 12, 2017, and design compatibility report dated March 2017, and required reports, are to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. A "Fair Disclosure" statement indicating that certain types of military air and ground training activity occur at Davis-Monthan Air Force Base and that the subject property is located within the Territory of the Vicinity of a Military Airport in accordance with State law, indicate area restricted to building height of sixty-two (62) feet and included as part of any development plans, final plats, information brochures, and sales/rental agreements.
6. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

LAND USE COMPATIBILITY

7. All walls visible from a public right-of-way and/or adjacent to residentially zoned property, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.
8. Graffiti shall be removed within seventy-two (72) hours of discovery.

DRAINAGE/VEGETATION/BUFFERS

9. Phase 1 development (Lot 8), to include construction of ten foot wide landscape borders located along street perimeters on future phase development areas (Lots 2 through 9).
10. The drainage area adjacent to Rita Road shall not be covered but left in its current configuration.
11. Except for the hotel located on Lot 8, all future buildings shall not exceed a building height of 57 feet. The building heights shall be measured from the design grade of the subject property.
- 12.

ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

13. Developer is required to provide, at the time of development of Lot 8, a new nine (9) feet wide by thirty (30) feet long and six (6) inches deep concrete bus stop, to comply with ADA transit boarding requirements. The pad to be installed at the existing bus stop by removing thirty (30) feet of existing sidewalk and installing the new pad and rear retaining wall if needed. Developer to consult with City of Tucson Department of Transportation (TDOT) for the final design and location.

AGREEMENT TO WAIVE ANY CLAIMS
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between _____, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(l).

The Owner is the holder of fee title to the property located at _____, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case C9-17-04 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City rezone the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the rezoning. The Owner believes that the rezoning of the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case C9-17-04.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the rezoning application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the zoning if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested zoning. If the Owner withdraws the application or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify

and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case C9-17-04.

Dated this _____ day of _____, 20____.

Owner: _____
(Name of Individual, Corporation, Partnership, or
LLC, as applicable)

Owner: _____
(Name of Individual, Corporation, Partnership, or
LLC, as applicable)

By: _____
(Signature of Owner or Authorized Representative, if
applicable)

By: _____
(Signature of Owner or Authorized Representative, if
applicable)

Its: _____
(Title of Individual Signing in Representative Capacity)

Its: _____
(Title of Individual Signing in Representative Capacity)

State of Arizona)
County of _____)

On this _____ day of _____, 20____, before me personally appeared _____ on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

Notary Public

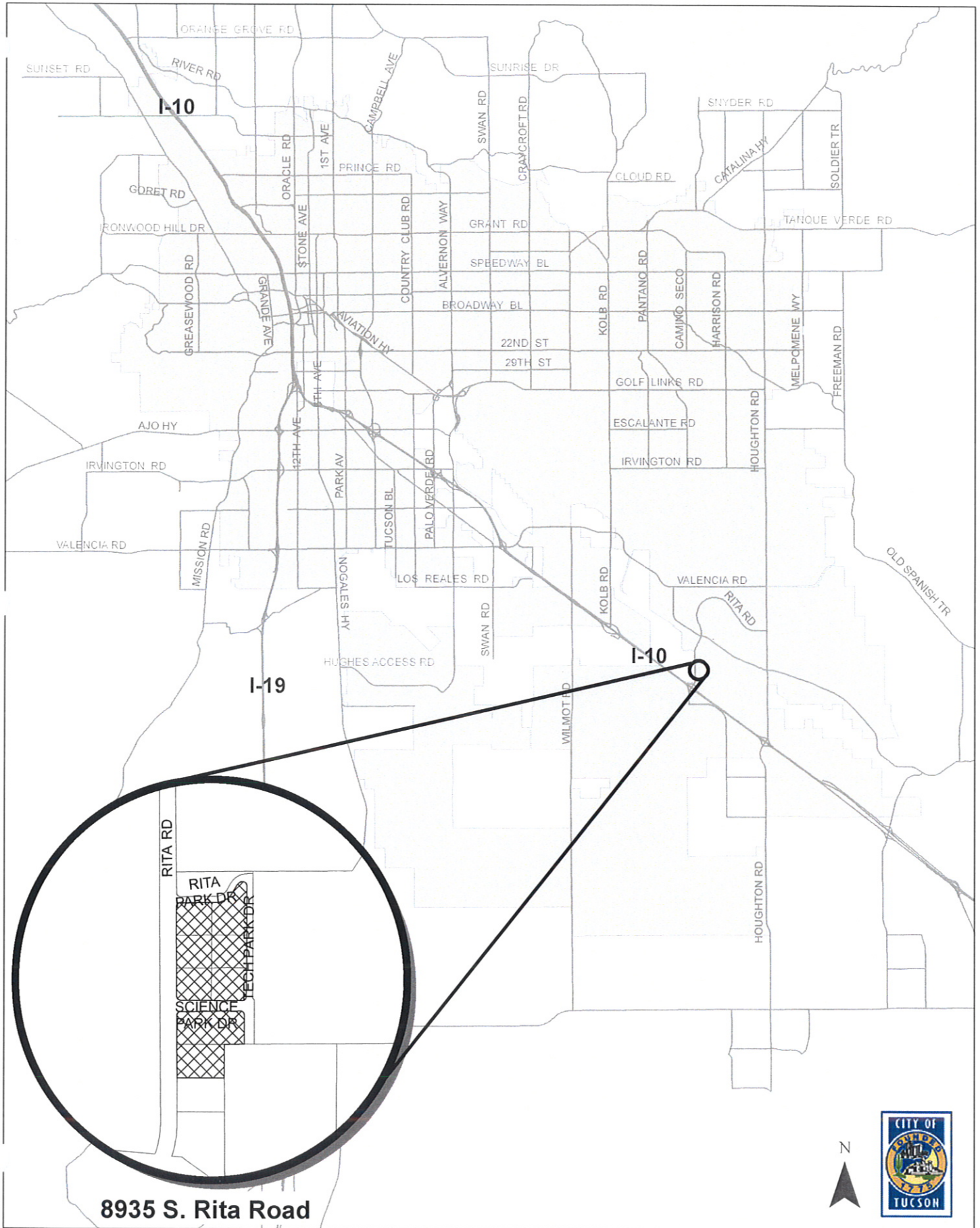
My Commission expires:

City of Tucson, an Arizona municipal Corporation:

By: _____
Planning & Development Services Department

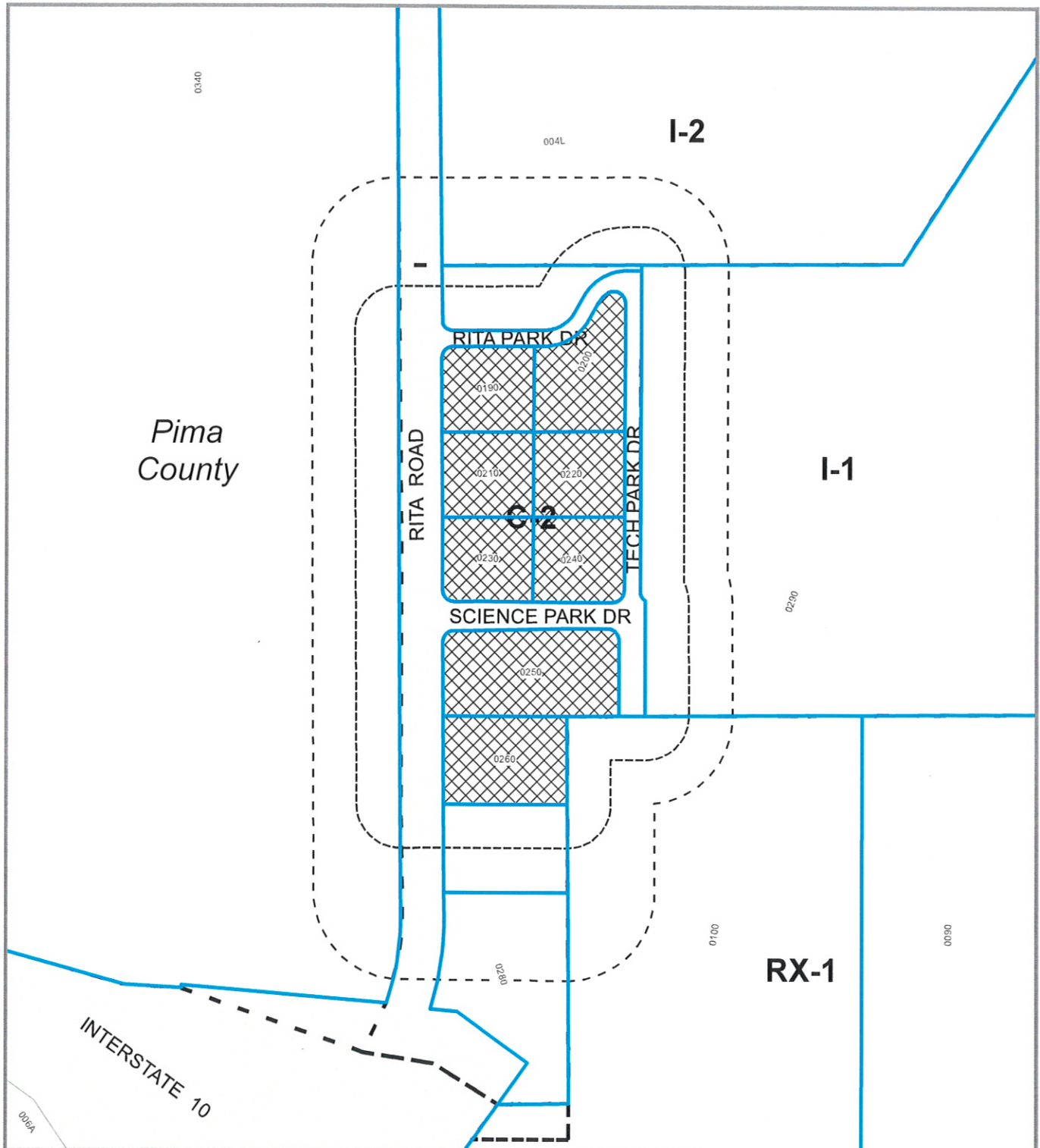
This form has been approved by the City Attorney.

C9-17-04 Rita Tech Park - Rita Road

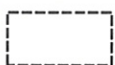


C9-17-04 Rita Tech Park - Rita Road

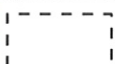
Rezoning Request: from C-2 to I-1



Area of Rezoning Request



150' Protest Area



300' Notification Area



Zone Boundaries



Address: 8935 S. Rita Road
Base Maps: Sec.34 T.15 R.15
Ward: 4

0 250 500
Feet
1 inch = 500 feet



created by: JR, 3/27/2017